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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,443	09/10/2001	Seiran Pogossian	V-202	4115

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DELLETT AND WALTERS
310 S.W. FOURTH AVENUE
SUITE 1101
PORTLAND, OR 97204

EXAMINER

WALLS, DIONNE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 10/23/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/936,443	Applicant(s) POGOSSIAN ET AL.	
	Examiner Dionne A. Walls	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 10 September 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on 9-10-01. These drawings are acceptable.
2. The original drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: "7". Additionally, the drawings show reference sign "8" in Figure 2, but in Figs. 3 and 4 this same reference sign appears to be labeling a different structural element.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "the tubular portion" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Also, regarding claim 1, it is not clear which element has a "total length that exceeds that of said tobacco rod". For examination purposes, it is assumed that

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Applicant is referring to the "mouthpiece", which is consistent with the teaching in the instant specification. Clarification is requested.

4. Regarding claim 5, the phrase "or similar filtering material" renders the claim indefinite because the claim includes elements not actually disclosed, thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d).

5. Claim 7 recites the limitation "the plasticized outer surface" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. Claims 1-2 and 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jansma et al (US. Pat. No. 4,856,540) in view of Muller (US. Pat. No. 2,005,661) in view of Bauer et al (US. Pat. No. 2,389,104).

Jansma et al discloses a filter modifier device to be inserted in a conventional filter-tipped cigarette which results in said cigarette having a cylindrical filter member integral with a tubular portion (formed by the insertion of the filter modifier 1), said filter modified being inserted such that the length of the filter portion is at least one third as great as the length of the tubular portion since Jansma et al states the length of the probe 30 of the modifier 1 is *about* $\frac{3}{4}$ the length of the typical cigarette filter (see fig. 2). While there may be no specific articulation of a tobacco rod wrapped in cigarette paper, a paper ring overlapping the surface of the cylindrical filter member, or the mouthpiece wrapped in a paper sleeve and a paper ring connected to the outer surface of said paper sleeve with a glue, this language is not deemed to patentably distinguish the claimed invention from Jansma et al since paper sleeves/rings are conventionally

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wrapped about tobacco rods, i.e. cigarette wrapping, and filter material, i.e. plug wraps, - said plug wraps being wrapped with another paper ring/sleeve, i.e. the tipping paper, which adheres to the filter and tobacco rod to attach the two pieces together. Lastly, since conventional cigarette filters are typically made out of cellulose acetate (corresponding to the claimed "acetate fiber"), it follows that this material would obviously be resilient and pressed to such a degree so as to ensure restoration of the flow area after removal of compressive force since cellulose acetate is a substance well-known and widely used for its durability as tobacco filters. While Jansma et al may not disclose that the device of its invention can be used in filters (i.e. mouthpieces) which have the size of a cardboard mouthpiece, Muller teaches that long cardboard mouthpieces are known for use as filters in the tobacco art (see col. 1, lines 7-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Jansma et al so as to accommodate being placed in a cigarette having a cardboard mouthpiece filter since these mouthpieces are known in the art as indicated by Muller. Also, while Jansma et al modified by Muller may not state that the length of the mouthpiece exceeds that of the tobacco rod, or that the length of the cylindrical filter portion of the filter mouthpiece is at least half as great as the length of the tobacco rod, Bauer discloses that the utilization of short tobacco rods are desirable for tobacco smokers who only have time to take a short smoke break (see col. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the conventional cigarette, as disclosed in Jansma et al, by substituting a short tobacco rod, such that the length of said rod is

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about two times the length of the cylindrical filter section but not as long as the entire mouthpiece to allow a user to take a shorter smoker break as is known in the art as evidenced by the Bauer disclosure.

7. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jansma et al (US. Pat. No. 4,856,540) in view of Muller (US. Pat. No. 2,005,661) and Bauer et al (US. Pat. No. 2,389,104) as applied to claim 1 above, and further in view of Stavridis (US. Pat. No. 6,257,242).

While the references combined may not teach an additional filter member arranged between the tobacco rod and the cylindrical filter member, said additional member being made of carbon or similar filtering material, Stavridis discloses a filter arrangement where the traditional cellulose acetate filter is arranged next to a filter element which contains carbonaceous material (see abstract and fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to arrange an additional filter material containing carbonaceous material between the typical cellulose acetate filter and the tobacco rod to further reduce toxic substances from cigarette smoke.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jansma et al (US. Pat. No. 4,856,540) in view of Muller (US. Pat. No. 2,005,661) in view of Bauer et al (US. Pat. No. 2,389,104) as applied to claim 1 above, and further in view of Pryor (US. Pat. No. 4,525,385).

While the combined references may not teach that the outer surface of the fibrous material is plasticized, Pryor teaches that the firmness of its filter rod as well as

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the integrity of its outer peripheral surface are indications of the plasticizer distribution in the filter tow (col. 8, lines 60-66). From this teaching, it follows that the addition of plasticizer to the filter tow will obviously result in a surface of said filter being "plasticized" which, according to Pryor, will result in a firm filter rod which is highly effective for its purpose.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jansma et al (US. Pat. No. 4,856,540) in view of Muller (US. Pat. No. 2,005,661) and Bauer et al (US. Pat. No. 2,389,104) and Pryor (US. Pat. No. 4,525,385), as applied to claim 1 above, and further in view of Cobb (US. Pat. No. 3,025,861).

While the combined references may not disclose the use of polyvinyl acetate emulsion for use as the plasticizer, Cobb discloses that polyvinyl acetates are known for use as a plasticizers (col. 4, lines 72-74). The fact that the claimed plasticizer is in emulsion form is not deemed to patentably distinguish the claims since emulsified forms of chemicals are known.

Allowable Subject Matter

10. Claims 4 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-

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0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to read "Dionne A. Walls", with a long horizontal flourish extending to the right.

Dionne A. Walls
October 19, 2002